IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

Con.Case(C).No. 337 of 2006(S)

NON-COMPLIANCE OF THE JUDGMENT IN O.P.NO.4532/1995 DATED 30.6.2004

PETITIONER: 2ND PETITIONER:

RAMADEVI P., AGED 43,
W/O.SUKUMARAN, THE ASSISTANT MILK PROCUREMENT
OFFICER (H.G.), ALAPPUZHA.

BY ADV. SRI.P.SANKARANKUTTY NAIR
SRI.T.V.AJAYAKUMAR

RESPONDENT: 5TH RESPONDENT:

M.R.SARATCHANDRAN, AGED 57 YEARS,
MANAGING DIRECTOR,
REGIONAL CO-OPERATIVE MILK PRODUCERS UNION,
THIRUVANANTHAPURAM.

BY ADV. SRI.B.S.KRISHNAN(SR.), SC, MILMA
SRI.K.ANAND (A.201)
SMT.LATHA KRISHNAN

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING BEEN FINALLY HEARD ON 10/09/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

.....

CONTEMPT CASE (C) No. 337 OF 2006

.....

Dated this the 10th September, 2007

J U D G M E N T

H.L. Dattu, C.J.:

The complainant before us, is the second petitioner in O.P.No. 4532 of 1995. This court by its order dated 30th June 2004 has disposed of the Original Petition and in that has issued certain directions, they are as under:

> *"The 5th respondent will place the petitioners above respondents 6,11 and 12 for the purpose of seniority and further promotion. I make it clear that the petitioners will not be entitled to any monetary benefit for the period from 30.12.1994 till date* ***other than pay fixation and promotion"*** *(emphasis is supplied).*

2. Alleging that the 5th respondent has disobeyed the orders and directions issued by this court, the 2nd petitioner in the Original Petition has filed this Contempt case under sections 11 and 12 of the Contempt of Courts Act read with Article 215 of the Constitution of India.

3. The 5th respondent has entered appearance. A counter affidavit has also been filed by him denying the assertions and allegations made by the complainant in the Contempt case filed.

4. We have carefully perused the orders and directions issued by this court. The learned single Judge while disposing of the Original Petition has observed that the 5th respondent, viz., the Regional Co-operative Milk Producers

Union, Trivandrum represented by the Managing Director, will place the petitioners in the Original Petition above respondents 6,11 and 12 in the seniority list prepared by them. Further the learned single Judge has directed that the petitioners in the Original Petition will not be entitled for any monetary benefits for the period from 30.12.1994 till the date of the order and the last direction was to fix the pay of the petitioners.

5. The 6th respondent had filed a Review Petition inter alia requesting this court to review the orders passed in the Original Petition No. 4532 of 1995. We are informed that the Review Petition has been allowed and that the 6th respondent is declared as senior to petitioners 1 and 2 in the Original Petition. The 5th respondent in his counter affidavit also has stated that in the seniority list prepared, petitioners 1 and 2 in the Original Petition are placed above the respondents 11 and 12. Further, it is stated in the counter affidavit that orders have been passed fixing the pay of the petitioners in the Original Petition as directed by this court by orders dated 5th August, 2005 and 5th November 2005. Learned counsel for the petitioner in this Contempt case would submit that the 5th respondent , while fixing the pay of the petitioner in this Contempt case ought to have taken into consideration the pay fixation that was done in the case of 11th and 12th respondents and since that has not been done, according to the learned counsel, there is deliberate and wilful disobedience of the orders and directions issued by this court. We have already stated that this court, while disposing of the Original Petition, has issued certain orders and directions. But nowhere in the order, this court has stated that the

fixation of pay of the petitioners in the Original Petition should be done as has been done in the case of respondent Nos.11 and 12 in the Original Petition. The only direction issued by this court is to assign higher ranking to the petitioners in the Original Petition than that of respondent Nos. 11 and 12. That has been done by the 5th respondent. In so far as fixation of pay is concerned, the 5th respondent has passed orders dated 5th August 2005 and 5th November 2005. If for any reason, the petitioner in this Contempt case is aggrieved by the said pay fixation, the petitioner, necessarily, has to question the aforesaid two orders in appropriate proceedings.

6. In that view of the matter, we are of the considered opinion that the 5th respondent has not committed any act of contempt as envisaged under section 2(b) of the Contempt of Courts Act. Therefore, further proceedings need not be taken in this Contempt case . Accordingly, further proceedings require to be dropped and they are dropped. However, liberty is reserved to the petitioner, if she so desires, to question the correctness or otherwise of the orders dated 5th August 2005 and 11th November 2005 passed by the 5th respondent, in appropriate proceedings.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

lk